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ATTORNEYS FOR CARVANA, LLC

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE:
LUIS EDGAR MARTINEZ
REBECCA ANA MARTINEZ

§
§ **CASE NO.: 18-30666-HCM**
§
§ **CHAPTER 13**

**CARVANA, LLC'S OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13
PLAN**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW CARVANA, LLC, a secured creditor in the above-styled and numbered case, fling this Objection to Confirmation of Chapter 13 Plan, and in support thereof would show the Court as follows:

1. The above styled Debtor filed a voluntary petition under Chapter 13 of Title 11, United States Bankruptcy Code on April 20, 2018.

2. Debtor is indebted to pursuant to a Retail Installment Contract and Security Agreement (the "Agreement") that is secured by a properly perfected security interest in a Motor Vehicle described as a 2015 TOYOTA TACOMA 2WD V6, VIN: 5TFJU4GN0FX066016 (the "Property" or "Collateral")

3. In its proof of claim, CARVANA, LLC asserted that as of the due date of the claim, the total debt was \$33,725.96.

4. Debtor's Chapter 13 Plan (the "Plan") as proposed describes the Collateral with a value of \$29,789.00 and proposes to pay the Claim at an interest rate of 6.25%.

5. CARVANA, LLC objects to confirmation of the Plan for the reason(s) that:

- i. It attempts to permanently modify CARVANA, LLC's rights, including but not limited to altering the payment terms and interest rate of repayment under bankruptcy law, even if Debtor is not entitled to a discharge; and
- ii. Under 11 U.S.C. § 1325 (1)(9) CARVANA, LLC has a purchase money security interest securing debt that is subject of the claim, which was incurred within 910 days prior to the petition and is a motor vehicle; and
- iii. The plan does not provide an adequate interest rate. CARVANA, LLC submits that the proper interest rate should be the current prime rate at the time the case was filed, plus one to three points as per *Till vs. SCS Credit Corp.*, 541 U.S. 465.

WHEREFORE, PREMISES CONSIDERED, CARVANA, LLC prays that this Court deny confirmation of the Plan, and grant to it such other and further relief to which it may show itself justly entitled.

Respectfully Submitted,

JACK O'BOYLE & ASSOCIATES

/s/ Travis H Gray

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing pleading has been sent to the persons listed below electronically or by first class mail on July 9, 2018.

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